Supreme Court, U. S.
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1979

NO. 79-990

GORDON MCLEAN CAMPBELL,

Petitioner,

v.

THE DISCIPLINARY BOARD OF THE WASHINGTON STATE BAR ASSOCIATION,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WASHINGTON

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SUBJECT INDEX

	Page
Opinion Below.....	1
Jurisdiction.....	2
Questions Presented For Review.....	2
Constitutional Provisions, Statutes And Court Rules.....	8
Statement Of The Case.....	9
Reasons For Granting The Writ.....	22
1. The decision below conflicts with Willner v. Committee On Character And Fitness, 373 U. S. 96, 83 S. Ct. 1175, 10 L. Ed. 2d 224 (1963)...	22
2.. The decision below conflicts with Brown v. Western Railway of Alabama, 338 U. S. 294, 70 S. Ct. 105, 94 L. Ed. 100 (1949) and presents a federal question of substance not heretofore decided by this Court....	25

SUBJECT INDEX

Page

3. The decision below conflicts with National Association For The Advancement Of Colored People v. Button, 371 U. S. 415, 83 S. Ct. 328, 9 L. Ed. 2d 405 (1963)...31

4. The decision below conflicts with Davis v. Wechsler, 263 U. S. 22, 44 S. Ct. 13, 68 L. Ed. 143 (1923)..... 36

Conclusion..... 39

Appendix

Ruling Dismissing Petition..... A1

Constitutional Provisions, Statutes And Court Rules..... B1

Petition Of Gordon McLean Campbell To Be Reinstated To The Active Roll Of Attorneys Of The Washington State Bar Association..... C1

Letter from respondent's counsel.... D1

SUBJECT INDEX

Page

Petition Against State Officers..... E1

Order Directing No Further Action... F1

Motion To Modify Ruling..... G1

Notation Order..... H1

TABLE OF CASES

Allen v. State Board Of Elections, 393 U. S. 544, 22 L. Ed. 2d 1, 89 S. Ct. 817 (1969).....C18, C19

Baird v. State Bar Of Arizona, 401 U. S. 1, 91 S. Ct. 702, 719, 27 L. Ed. 2d 639 (1971).....37, 38

Brown v. Western Railway Of Alabama, 338 U. S. 294, 70 S. Ct. 105, 94 L. Ed. 100 (1949).....3, 5, 25, 26, 27, 30

Davis v. Wechsler, 263 U. S. 22, 44 S. Ct. 13, 68 L. Ed. 143 (1923)..... 7, 36, 39

In Re Campbell, 74 Wn. 2d 276, 444 P. 2d 784, certiorari denied,

Page

394 U. S. 323, 89 S. Ct. 1207,
22 L. Ed. 2d 310 (1969).....9, 11,
A1, C1, F1

National Association For The
Advancement Of Colored People v.
Alabama EX REL. Patterson, Attorney
General, 357 U. S. 449, 78 S. Ct.
1163, 2 L. Ed. 2d 1488 (1958).....7, 36,
37, 39

National Association For The
Advancement Of Colored People v.
Button, 371 U. S. 415, 83 S. Ct.
328, 9 L. Ed. 2d 405 (1963).....5, 6, 15,
20, 31, 32,
33, 35, 36,
38, C7, C8,
C9, C10,
C12, C13

Staub v. City Of Baxley, 355
U. S. 313, 78 S. Ct. 277, 2 L.
Ed. 2d 302 (1958).....7, 37, 39

Page

Sullivan v. Little Hunting
Park, Inc., 396 U. S. 229, 90
S. Ct. 400, 24 L. Ed. 2d 386
(1969).....29, C18,
C19

United States v. Ballard, 322 U. S.
78, 64 S. Ct. 882, 88 L. Ed.
1148 (1944).....10, 11,
C2

Willner v. Committee On
Character And Fitness,
Appellate Division Of The
Supreme Court Of New York,
First Judicial Department,
373 U. S. 96, 83 S. Ct. 1175,
10 L. Ed. 2d 224 (1963) 3, 22, 23,
24, 37

Wright ET AL. v. Georgia,
373 U. S. 284, 83 S. Ct.
1240, 10 L. Ed. 2d 349 (1963)...7, 37, 39

CONSTITUTIONAL PROVISIONS

Page

1st Amendment, U. S.
Constitution, Volume One
U. S. C. page L.....7, 8, 21, 37, 38

14th Amendment, U. S.
Constitution, Volume One
U. S. C. page LII.....7, 8, 21 37, 38

STATUTES

15 U. S. C. A. #1021 (a), (b)...4, 19, 21, 27, 28, 29, 30, 31, 34, 38, C7, C8, C13, C17, C19, C20, C21

15 U. S. C. A. #1021 (j), 92 Stat. 1892.....4, 19, 21, 27, 30, 31, 38, C7, C8, C13, C19, C20, C21

15 U. S. C. #1021, Volume

STATUTES

Page

Three U. S. C. page 1281.....6, 12, 15, 33, C3, C12, C13

COURT RULES

Discipline Rules For
Attorneys (DRA), Rule 4.2,.....
Volume 10 Revised Code of
Washington.....A2
DRA 4.2 (a).....E1
DRA 4.2 (c).....16, 38, 39, A1, E1, E2, E3, G4

OTHER AUTHORITY

U. S. Code Congressional And
Administrative News, 1978,
Legislative History, p. 4406.....28, 29

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OCTOBER TERM 1979

NO. _____

GORDON MCLEAN CAMPBELL,

Petitioner,

v.

THE DISCIPLINARY BOARD OF THE WASHINGTON STATE BAR ASSOCIATION,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WASHINGTON

The petitioner, Gordon McLean Campbell, respectfully prays that a writ of certiorari issue to review the Order of the Washington State Supreme Court entered in this proceeding on October 12, 1979.

OPINION BELOW

The opinion of the Washington State

Supreme Court Commissioner was not reported and appears in Appendix A. No opinion was rendered by the Washington State Supreme Court.

JURISDICTION

The Order of the Washington State Supreme Court in this proceeding was dated October 12, 1979 and was entered on that date. This Court's jurisdiction is invoked under 28 U. S. C. #1257(3).

QUESTIONS PRESENTED FOR REVIEW

1. Whether the Order of the Washington Supreme Court denying petitioner a hearing on his petition for reinstatement to the active roll of attorneys of the Washington State Bar Association and dismissing the petition for failure to state a claim on which relief can be granted because the petition lacked an allegation respecting petitioner's mental competence conflicted with the holding of the United States Supreme Court in

Willner v. Committee On Character And Fitness, Appellate Division Of The Supreme Court Of New York, First Judicial Department, 373 U. S. 96, 83 S. Ct. 1175, 10 L. Ed. 2d 224 (1963) where it was held that, on an application for admission to the bar, the applicant is entitled to a hearing on his application in order to refute charges that the application is deficient.

2. Whether the decision of the court below denying petitioner a hearing before The Disciplinary Board of the Washington State Bar Association on his petition for reinstatement and dismissing the petition for failure to contain an allegation regarding petitioner's mental competence to practice law conflicted with the holding of the United States Supreme Court in Brown v. Western Railway Of Alabama, 338 U. S. 294, 70 S. Ct. 105, 94 L. Ed. 100 (1949) where it was held that, where a

complaint contains an allegation of rights under a federal statute in a plain and understandable manner, state procedural rules will not be allowed to bar the assertion of federal rights by requiring the addition of unnecessary allegations to the complaint since, in the instant case, petitioner's petition for reinstatement contained an assertion of rights under the Full Employment And Balanced Growth Act of 1978, 15 U. S. C. A. #1021 et seq., alleging that implied right of suit for a job against private persons was a reasonable possibility under this law which made statutory the right of every American to a job and that, therefore, such type suit no longer constituted a basis for the transfer of an attorney to the inactive roll of attorneys, petitioner having been transferred inactive in 1968 because of similar type suits in which he sought to enforce his constitutional right

to a job, and that the requirement by the Disciplinary Board and the State Supreme Court of allegations in the petition regarding petitioner's mental competence was a barring of petitioner's assertion of federal rights contrary to the holding of Brown v. Western Railway Of Alabama, supra.

3. Whether the decision of the court below denying petitioner a hearing and dismissing his petition for reinstatement conflicted with the holding of the U. S. Supreme Court in National Association For The Advancement Of Colored People v. Button, 371 U. S. 415, 83 S. Ct. 328, 9 L. Ed. 2d 405 (1963) where it was held that where lawsuits involve a national political issue, national legislation, with large groups of people on both sides of the issue, the lawsuits become a form of political expression protected by the Constitution and do not constitute pro-

fessional misconduct since, in the instant case, the suits for which petitioner was transferred to the inactive roll of attorneys involved a national political issue, the right of every American to a job, the issue dating back at least to the days of President Franklin D. Roosevelt when the United States enjoyed guaranteed employment, the WPA, one of his greatest achievements, and national legislation, the 1946 Employment Act, 15 U. S. C. # 1021 et seq. (1976 Edition), which proclaims the right of every American to a job, with large groups of people on both sides of the issue as is shown by the Presidential Election of 1976 where the Democrats favored and the Republicans opposed guaranteed employment and, therefore, under the holding of Button, supra, should not be considered as constituting professional misconduct.

4. Whether the decision of the court be-

low conflicted with the decisions of the United States Supreme Court in Davis v. Wechsler, 263 U. S. 22, 44 S. Ct. 13, 68 L. Ed. 143 (1923), National Association For The Advancement Of Colored People v. Alabama EX REL. Patterson, Attorney General, 357 U. S. 449, 78 S. Ct. 1163, 2 L. Ed. 2d 1488 (1958), Staub v. City Of Baxley, 355 U. S. 313, 78 S. Ct. 277, 2 L. Ed. 2d 302 (1958) and Wright ET AL. v. Georgia, 373 U. S. 284, 83 S. Ct. 1240, 10 L. Ed. 2d 349 (1963) where it was held that a novel or unreasonable interpretation of state procedural rules will not be allowed to bar the assertion of federal rights when plainly and reasonable made since, in the instant case, petitioner's petition for reinstatement to the active roll of attorneys of the Washington State Bar Association contained an assertion of rights under the 1st and 14th Amendments to the U. S. Constitution which grant

petitioner the right to use lawsuits as a means of political expression and the right to practice law and under the Full Employment And Balanced Growth Act of 1978 which grants petitioner a statutory right to a job and the action of the Disciplinary Board and the Washington Supreme Court in denying petitioner a hearing on his petition was in direct conflict with the state court rules pursuant to which the petition was filed which expressly conferred the right to a hearing upon petitioner.

CONSTITUTIONAL PROVISIONS, STATUTES AND COURT RULES

The pertinent text is set forth in Appendix B.

1. 1st Amendment, United States Constitution, Volume One U. S. C. page L.
2. 14th Amendment, United States Constitution, Volume One U. S. C. page LII.
3. 15 U. S. C. A. #1021 (a), (b), (j); 92 Stat. 1890, 1892.

4. 15 U. S. C. #1021, Volume Three U. S. C. page 1281.
5. Discipline Rules For Attorneys, Rules 4.1 (b) and Rule 4.2 (a), (b), (c), Volume 10 Revised Code of Washington (1978 Edition) pages 51, 52.

STATEMENT OF THE CASE

Petitioner was transferred to the inactive roll of attorneys in 1968 by the Washington Supreme Court, In Re Campbell, 74 Wn. 2d 276, 444 P. 2d 784, certiorari denied, 394 U. S. 323, 89 S. Ct. 1207, 22 L. Ed. 2d 310 (1969), because of four lawsuits he had brought in which he sought to enforce his constitutional right to a job. Each of the suits was against an attorney, financially able to employ petitioner, to whom petitioner had first applied for employment. After rejection of the applications, the suits were filed seeking the wages petitioner would have received if employed.

The formal complaint filed against petitioner by the Washington State Bar Association in 1966 contained one other charge, a discovery petitioner contended he had made regarding the air. Petitioner said that he had learned that the air possibly is alive, God, an intelligent air form of life that blows and moves by means of its own life and will. Petitioner claimed that the scientific explanation for the air's movement is not satisfactory and that the Bible supports the hypothesis that the air's movement is live movement.

Petitioner said that he had discovered that the air possibly is alive and God when the voice of God spoke to him in oral English words from out of the adjacent air.

Petitioner supported the discovery with the Bible and with United States v. Ballard, 322 U. S. 78, 64 S. Ct. 882, 88

L. Ed. 1148 (1944) in which case the United States Supreme Court held that the contention that Jesus Christ came down to earth and spoke to 20th century humans was a valid religious belief and experience which government authorities were forbidden to inquire into.

With regard to petitioner's discovery regarding the air, the Washington Supreme Court stated:

> "The hearing panel was not constituted to make such determinations; nor is it within our competence." In Re Campbell, 74 Wn. 2d at 279, 444 P. 2d at 786.

In transferring petitioner to the inactive roll of attorneys, the Washington Supreme Court totally left out of consideration petitioner's discovery about the air. The transfer was based exclusively upon the suits which petitioner had brought

to enforce his constitutional right to a job, the Washington Supreme Court finding that the suits showed that petitioner was mentally incompetent to practice law.

In 1975, it was proposed in the U. S. Congress to amend the 1946 Employment Act, 15 U. S. C. #1021 et seq., which declared as the national policy of the United States that every American is entitled to a job (which Act had been in effect for 20 years at the time petitioner brought the suits for which he was transferred to the inactive roll) to guarantee jobs to all Americans and to add a "right to sue" section authorizing Americans to sue in U. S. District Court to obtain a job. Appendix C, Petition of Gordon McLean Campbell to be Reinstated to the Active Roll of Attorneys of the Washington State Bar Association, pp. 3-4.

The 1975 proposed amendment to the 1946 Employment Act received nationwide

attention and approval during 1975 and 1976. Appendix C, petitioner's Petition to be Reinstated to the Active Roll of Attorneys, pp. 4-5.

The idea of suing in U. S. District Court to obtain a job was publicized nationally. Appendix C, petitioner's Petition to be Reinstated to the Active Roll of Attorneys, pp. 5-6.

The issue of guaranteed jobs for all Americans was a leading if not determinative issue in the Presidential Campaign of 1976. Appendix C, petitioner's Petition to be Reinstated to the Active Roll of Attorneys, p. 6.

Guaranteed jobs for all Americans was the number one plank in the Democratic National Party Platform in the Presidential Campaign of 1976. Appendix C, petitioner's Petition to be Reinstated to the Active Roll of Attorneys, p. 6.

In the campaign, the Republicans

strongly opposed full employment legislation. Appendix C, petitioner's Petition to be Reinstated to the Active Roll of Attorneys, pp. 6-7.

The Democrats won the Presidential Election.

In 1978, The Full Employment And Balanced Growth Act of 1978 was enacted. This law made statutory the right of every American to a job. Appendix C, petitioner's Petition to be Reinstated to the Active Roll of Attorneys, p. 7.

Because of these facts, petitioner decided to petition for reinstatement. Petitioner felt that suit for a job against private persons was a reasonable possibility under the Full Employment Act of 1978 as an implied right of suit to enforce a statute conferring a statutory right. Appendix C, petitioner's Petition to be Reinstated to the Active Roll, pp. 17-21.

Petitioner also referred to the guar-

anteed employment of the 1930's, during the administration of President Franklin D. Roosevelt, which is considered one of his greatest achievements and a boon to the U. S. (Appendix C, petitioner's Petition to be Reinstated to the Active Roll of Attorneys, p. 11) and to the 1946 Employment Act, 15 U. S. C. #1021, which declared as national policy of the U. S. the right of every American to a job,

All of these facts, petitioner contended, showed that the right of every American to a job is a national political issue in the United States within the holding of National Association For The Advancement Of Colored People v. Button, supra, and that, therefore, suits on either side of this issue transcend the range of professional ethics and do not constitute professional misconduct. Appendix C, petitioner's Petition to be Reinstated to the Active Roll of Attorneys, pp. 7-14.

On July 9, 1979, petitioner filed his Petition for Reinstatement to the Active Roll of Attorneys with the Disciplinary Board of the Washington State Bar Association. Appendix C, p. 1. The pertinent state court rule, pursuant to which the petition was filed, specified that petitioner should receive a hearing on his petition within 30 days. Appendix B, DRA 4.2 (c).

Near the end of the 30 day period, petitioner learned by phone from counsel for the Disciplinary Board that the hearing would not be granted. Petitioner then notified counsel that this would be a denial of due process of law. On August 7, 1979, petitioner received a letter from the counsel for the Disciplinary Board confirming this phone conversation. Appendix D.

On August 27, 1979, petitioner filed a Petition Against State Officers with the

Washington State Supreme Court asking that the Disciplinary Board be ordered to grant petitioner a hearing on his Petition for Reinstatement. Appendix E.

On August 28, 1979, petitioner received a copy of the Order of the Disciplinary Board denying petitioner a hearing. Appendix F, Order Directing No Further Action.

On September 21, 1979, petitioner's Petition Against State Officers was heard by the Washington Supreme Court Commissioner. The hearing was summary and without oral argument.

The Ruling of the Commissioner denied petitioner a hearing on his Petition for Reinstatement and dismissed the Petition. Appendix A, Ruling Dismissing Petition.

On September 28, 1979, petitioner filed a Motion To Modify Ruling with the Washington Supreme Court asking that the Court hear petitioner's Petition Against State Officers. Appendix G, Motion To

Modify Ruling.

On October 12, 1979, The Washington Supreme Court denied petitioner's Motion To Modify Ruling. Appendix H., Notation Order.

The first federal question sought to be reviewed was raised by petitioner in the Washington Supreme Court by petitioner's Petition Against State Officers (Appendix E) and Motion To Modify Ruling (Appendix G) asking that petitioner be granted a hearing before the Disciplinary Board Of The Washington State Bar Association on petitioner's Petition to be Reinstated to the Active Roll of Attorneys.

The second federal question sought to be reviewed was raised by petitioner in the Washington Supreme Court by petitioner's Petition Against State Officers (Appendix E) and Motion To Modify Ruling (Appendix G) asking a hearing before the Disciplinary Board on the Petition for

Reinstatement (a copy of the Petition for Reinstatement was attached to the Petition Against State Officers). The Petition for Reinstatement contained a clear and understandable allegation of rights under federal statute, The Full Employment And Balanced Growth Act of 1978, 15 U. S. C. A. #1021 et seq.. Appendix C, petitioner's Petition to be Reinstated to the Active Roll, pp. 17-21. Petitioner contended that implied right of suit against private persons for a job was a reasonable possibility under the 1978 Act, since the Act made statutory the right of every American to a job. This being true, petition contended that he was entitled to be transferred to the Active Roll of Attorneys, since the sole cause of his transfer to the inactive roll was the suits in which he had sued to enforce his constitutional right to a job.

The third federal question sought to

be reviewed was raised by petitioner in the Washington Supreme Court by petitioner's Petition Against State Officers (Appendix E) and Motion To Modify Ruling (Appendix G). Petitioner's Petition for Reinstatement, attached to the Petition Against State Officers, showed that the suits for which petitioner had been transferred to the inactive roll involved a national political issue, the right of every American to a job, national legislation, with large groups of people on both sides of the issue. Appendix C, petitioner's Petition to be Reinstated to the Active Roll of Attorneys, pp. 7-14. The Petition showed that, under the holding of National Association For The Advancement Of Colored People v. Button, supra, this type suit transcended the range of professional ethics and did not constitute professional misconduct.

Therefore, petitioner argued, he was

entitled to be transferred to the Active Roll.

The fourth federal question sought to be reviewed was raised by petitioner in the Washington Supreme Court by petitioner's Petition Against State Officers (Appendix E) and Motion To Modify Ruling (Appendix G). Petitioner's Petition for Reinstatement, attached to the Petition Against State Officers, contained a clear and understandable allegation of rights under the 1st and 14th Amendments to the U. S. Constitution which grant petitioner the right to use lawsuits as a means of political expression and the right to practice law (pp. 3-14) and under the Full Employment And Balanced Growth Act of 1978 which grants petitioner a statutory right to a job, thereby making implied right to suit for a job a reasonable possibility under the statute (pp. 17-21).

The Petition Against State Officers and Motion To Modify Ruling showed that the state court rule pursuant to which the Petition for Reinstatement had been filed expressly called for a hearing within 30 days. Thus, it was clear that only a novel interpretation of the state court rule would deny petitioner his hearing.

The Washington Supreme Court passed upon all four federal questions by dismissing petitioner's Petition Against State Officers. Appendix H, Notation Order.

The Petition Against State Officers was an original proceeding in the Washington Supreme Court in the nature of an application for a writ of mandamus. Appendix A, Ruling Dismissing Petition.

REASONS FOR GRANTING THE WRIT

1. The decision of the Washington Supreme Court conflicted with the holding of this Court in Willner v. Committee On Character

And Fitness, Appellate Division Of The Supreme Court Of New York, First Judicial Department, 373 U. S. 96, 83 S. Ct. 1175, 10 L. Ed. 2d 224 (1963).

In this case, it was held:

"We hold that petitioner was denied procedural due process when he was denied admission to the Bar by the Appellate Division without a hearing on the charges filed against him before either the Committee or the Appellate Division." 373 U. S. at 106.

At 373 U. S. 105, it was said:

"There seems to be no question but that petitioner was apprised of the matters the Committee was considering.

'But a "full hearing"--a fair and open hearing--requires more than that....Those who are brought into contest

with...Government in a quasi-judicial proceeding aimed at the control of their activities are entitled to be fairly advised of what the Government proposes and to be heard upon its proposals before it issues its final command.'"

In the instant case, it is conceded that petitioner did not receive a hearing on his Petition for Reinstatement to the Active Roll of Attorneys before the Disciplinary Board of the Washington State Bar Association. Appendix D, Letter from Counsel for the Disciplinary Board.

Although the instant case involves a petition for reinstatement to the active roll of attorneys, the rule would seem to be the same in both cases.

Therefore, under the holding of Willner, supra, petitioner was denied due pro-

cess by the Washington Supreme Court by its order denying petitioner a hearing before the Disciplinary Board on petitioner's Petition to be Reinstated to the Active Roll of Attorneys of the Washington State Bar Association.

2. The decision of the Washington Supreme Court conflicted with the holding of this Court in Brown v. Western Railway of Alabama, 338 U. S. 294, 70 S. Ct. 105, 94 L. Ed. 100 (1949).

In this case, the United States Supreme Court considered the sufficiency of a complaint under the Federal Employers' Liability Act. The lower court had held that the mere allegation that plaintiff had been injured by a large clinker left beside the railway track was insufficent. The court reached that conclusion by following a state court rule of practice to construe pleading allegations most strongly against the pleader.

This Court said:

"It is contended that this construction of the complaint is binding on us.....A long series of cases previously decided, from which we see no reason to depart, makes it our duty to construe the allegations of this complaint ourselves in order to determine whether petitioner has been denied a right of trial granted him by Congress. This federal right cannot be defeated by the forms of local practice." 338 U. S. at 296.

At 338 U. S. 298, 299 this Court further said:

"Strict local rules of pleading cannot be used to impose unnecessary burdens upon rights of recovery authorized by federal laws. 'Whatever springes the State may set for those who are endeavoring to assert rights that the State confers, the

assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice.'..... Should this Court fail to protect federally created rights from dismissal because of over-exacting local requirements for meticulous pleadings, desirable uniformity in adjudication of federally created rights could not be achieved."

This Court held that the complaint was sufficient under the FELA.

In the instant case, petitioner's Petition for Reinstatement to the Active Roll of Attorneys contained a clear and understandable allegation of rights under federal statute, the Full Employment And Balanced Growth Act of 1978, 15 U. S. C. A. #1021 et seq.. Appendix C, pp. 17-21. This law made statutory the right of

every American to a job. 15 U. S. C. A. #1021 (a), (b), Appendix B.

> "Full Employment And Balanced Growth Act Of 1978----An Act to translate into practical reality the right of all Americans who are able, willing, and seeking work to full oppority for useful paid employment at fair rates of compensation.. ....., Preamble, 92 Stat. 1887.
>
> "Explanation Of The Full Employment And Balanced Growth Act Of 1978 As Reported By The Committee On Human Resources..... The legislation approved by the Human Resources for consideration by the full Senate would:
>
> Affirm in law, for the first time, the right of every American willing and able to work, to useful employment paying

> decent wages;....."
>
> U. S. Code Congressional And Administrative News, 1978, Legislative History, p. 4406.

Petitioner contended that an implied right of suit against private persons to obtain a job (where the private person was financially able to employ) was a reasonable possibility under this statute.

> "When a statute conferring a right or benefit does not contain an express right to sue provision, the rule is well-estabilised that:
>
> 'The existence of a statutory right implies the existence of all necessary and appropriate remedies.' Sullivan v. Little Hunting Park, Inc., 396 U. S. 229, 24 L. Ed. 2d 386, 90 S. Ct. 400 (1969), at 396 U. S. 239." Appendix C, petitioner's Petition to be Reinstated to the

Active Roll, pp. 17-18.

Since the suits for which petitioner had been transferred to the inactive roll were of a similar nature, petitioner argued that he was now entitled to be reinstated to the active roll. The suits which had been labeled mental incompetence to practice law by the Washington Supreme Court were now a plausible type suit under the 1978 Full Employment Act.

The Washington Supreme Court, in much the same laguage as the Disciplinary Board, dismissed petitioner's Petition for Reinstatement because it lacked an allegation regarding petitioner's mental competence.

Petitioner contends that this decision by the Washington Supreme Court conflicted with the holding in Brown, supra, barring a plain assertion of federal rights by an over-exacting local pleading requirement which required the insertion in the Petition

for Reinstatement of a redundant allegation regarding petitioner's mental competence.

Since a federal question of substance not heretofore determined by this Court is involved, whether an implied right of suit for a job against private persons exists under the Full Employment And Balanced Growth Act of 1978, this Court should grant certiorari to review the order of the court below.

3. The decision of the Washington Supreme Court conflicted with the holding of this Court in National Association For The Advancement Of Colored People v. Button, 371 U. S. 415, 9 L. Ed. 2d 405, 83 S. Ct. 328 (1963).

In this case, it was held that where lawsuits involve a national political issue, national legislation, with large groups of people on both sides of the issue, the suits become a form of political expression protected by the U. S. Constitution which

transcends the realm of professional ethics and do not constitute professional misconduct.

> "The question presented, with its implications, involves problems of political, social and economic character that have long since assumed the proportions of national issues, on one side or the other which multitudes of patriotic citizens have aligned themselves. These issues transcend the range of professional ethics." 371 U. S. at 442, footnote 26.

"Cf. Opinion 148, Committee on Professional Ethics and Grievances, American Bar Association (1935), ruling that the Liberty League's program of assisting litigation challenging New Deal legislation did not constitute unprofessional conduct." 371 U. S.

at 430, footnote 13.

Petitioner, in his Petition for Reinstatement to the Active Roll of Attorneys of the Washington State Bar Association, contended that the suits for which he had been transferred to the inactive roll came within the holding of Button. Appendix C, pp. 3-14.

The suits involved a national political issue, the right of every American to a job. This was shown by the fact that, during the administration of President Franklin D. Roosevelt, the U. S. experienced guaranteed employment, the WPA, considered one of his greatest achievements and a boon to the U. S.. In 1946, the 1946 Employment Act became a law, declaring as national policy the right of every American to a job.

In 1975, it was proposed to amend the 1946 Employment Act to guarantee jobs to all Americans and authorize suit in

U. S. District Court to obtain a job. The 1975 proposed Amendment to the 1946 Employment Act received nationwide attention and approval during 1975 and 1976.

The idea of suing in U. S. District Court to obtain a job was publicized nationally.

The issue of guaranteed jobs was a leading if not determinative issue in the Presidential Campaign of 1976.

Guaranteed jobs for all Americans was the number one plank in the Democratic National Party Platform in the Presidential Campaign of 1976.

In the campaign, the Republicans strongly opposed full employment legislation.

The Democrats won the Presidential Election.

In 1978, the Full Employment And Balanced Growth Act of 1978 was enacted into law. This Act made statutory the right of every American to a job.

Petitioner contended that these facts showed that the right of every American to a job is a national political issue in the United States analagous to the civil rights issue of Button.

Therefore, under the holding of Button, lawsuits on either side of this national political issue transcend the range of professional ethics and do not constitute professional misconduct.

Thus, petitioner contended, the suits for which he had been transferred to the inactive roll in which he had sought to enforce his constitutional right to a job were protected from state sanctions.

> "It is thus a form of political expression. Groups which find themselves unable to achieve their objectives through the ballot frequently turn to the courts. Just as it was true of the opponents of New Deal legis-

lation during the 1930's, for example, no less is it true of the Negro minority today. And under the conditions of modern government, litigation may well be the sole practicable avenue open to a minority to petition for redress of grievances." National Association For The Advancement Of Colored People v. Button, 371 U. S. at 429.

Therefore, petitioner contended, he was entitled to be restored to the active roll of attorneys of the Washington State Bar Association.

4. The decision of the Washington Supreme Court conflicted with the holdings of this Court in Davis v. Wechsler, 263 U. S. 22, 44 S. Ct. 13, 68 L. Ed. 143 (1923), National Association For The Advancement Of Colored People v. Alabama EX REL. Patterson, Attorney General, 357 U. S. 449,

78 S. Ct. 1163, 2 L. Ed. 2d 1488 (1958), Staub v. City Of Baxley, 355 U. S. 313, 78 S. Ct. 277, 2 L. Ed. 2d 302 (1958) and Wright ET AL. v. Georgia, 373 U. S. 284, 83 S. Ct. 1240, 10 L. Ed. 2d 349 (1963).

In these cases, it was held that a novel or unreasonable interpretation or application of state court rules will not be allowed to bar the assertion of federal rights when plainly and reasonably made.

In the instant case, petitioner's Petition for Reinstatement to the Active Roll of Attorneys, Appendix C, contained a clear and reasonable allegation of rights under the 1st and 14th Amendments to the U. S. Constitution, which grant petitioner the right to practice law, Willner v. Committee On Character And Fitness, Appellate Division Of The Supreme Court Of New York, First Judicial Department, supra, and Baird v. State Bar Of Arizona, 401 U.

S. 1, 91 S. Ct. 702, 719, 27 L. Ed. 2d 639, and the right to use the courts as a means of political expression, National Association For The Advancement Of Colored People v. Button, supra.

The Petition for Reinstatement to the Active Roll also contained a plain and understandable assertion of rights under the Full Employment And Balanced Growth Act Of 1978, 15 U. S. C. A. #1021 et seq., which gave petitioner a statutory right to a job, making implied right of suit for a job against private persons a plausible possibility under the Act. #1021 (j) places primary reliance upon the private sector for the creation of new jobs. Appendix C, pp. 17-21.

The state court rules pursuant to which the Petition for Reinstatement was filed expressly called for a hearing upon the Petition within 30 days of the filing date. Discipline Rules For Att-

orneys 4.2 (c), Revised Code Of Washington, Appendix B.

Notwithstanding this fact, the Washington Supreme Court dismissed the Petition for Reinstatement to the Active Roll without a hearing before the Disciplinary Board.

Petitioner contends this was a novel interpretation of Rule 4.2 (c) within the holding of Davis, Alabama, Staub and Wright, supra, barring petitioner's assertion of federal rights contrary to the holdings of the cited cases.

CONCLUSION

Because of the foregoing reasons, a writ of certiorari should issue to review the order of the Washington Supreme Court.

Gordon McLean Campbell

Petitioner

APPENDIX A

THE SUPREME COURT OF WASHINGTON

GORDON MCLEAN CAMPBELL, Petitioner,	)	NO. 46438
v.	)	RULING
THE DISCIPLINARY BOARD OF THE WASHINGTON STATE BAR ASSOCIATION, Respondent.	)	DISMISSING PETITION

Petitioner Campbell has filed an original action in this court seeking to compel the Disciplinary Board of the Washington State Bar Association to grant him a hearing on his petition for reinstatement to active membership in the association, dated July 9, 1979. He contends that such a hearing is mandatory pursuant to DRA 4.2(c). In response to Campbell's petition for reinstatement, the Disciplinary Board entered an order dated August 23, 1979, directing that no further action be taken,

on the grounds that the petition did not address Mr. Campbell's mental competence to practice law. The Board was of the opinion that this court's decision striking Mr. Campbell's name from the roll of attorneys permitted to engage in the active practice of law in this state, In re Campbell, 74 Wn. 2d 276, 444 P. 2d 784 (1968), would require a showing of mental competence by Mr. Campbell as the primary thrust of any petition for reinstatement.

This determination by the Board appears manifestly correct. The Board could not properly grant Mr. Campbell reinstatement based upon his July 9, 1979 petition alone, and thus if this court were to require the Board to hold a hearing on that petition it would be requiring a useless act. It will not do so. In essence, Mr. Campbell's petition to this court simply fails to state a claim upon which relief can be granted. The petition is therefore

dismissed.

This ruling in no way prejudices Mr. Campbell's right to file with the Board new or supplemental petitions for reinstatement which do address his mental competence to practice law, and which therefore would provide an appropriate basis for invoking the procedures set forth in DRA 4.2.

DATED this 21st day of September, 1979 at Olympia, Washington.

s/ Geoffrey Crooks

COMMISSIONER

ENTERED in the Supreme Court on September 21, 1979.

APPENDIX B

1st Amendment, United States Constitution, Volume One U. S. C. page L.

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

14th Amendment, United States Constitution, Volume One U. S. C. page LII.

> "Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privil-

eges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

15 U. S. C. A. #1021 (a), (b), (j); 92 Stat. 1890, 1892.

"(a) The Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practicable means, consistent with its needs and obligations and other essential national policies, and with the assistance and cooperation of both small and larger businesses, agriculture, labor, and State and local governments, to coordinate and utilize all its plans, functions, and re-

sources for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions which promote useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and promote full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance through increased exports and improvement in the international competitiveness of agriculture, business, and industry, and reasonable price stability as provided in section 1022b(b) of this title.

(b) The Congress further declares and establishes as a national goal the fulfillment of the right to full opportunities for useful paid employment at fair rates of compensation of all individuals able, willing, and seeking to work.

(j) The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to rely principally on the private sector for expansion of economic activity and creation of new jobs for a growing labor force. Toward this end, it is the purpose of this chapter to encourage the adoption of fiscal policies that would establish the share of the gross national product accounted for by Federal outlays at the lowest level consistent with national needs and priorities."

15 U. S. C. #1021, Volume Three U. S. C. page 1281.

"The Congress declares that it is the continuing policy and responsibility of the Federal Government to use all practicable means consistent with its needs and obligations and other essential considerations of national policy , with the assistance and cooperation of industry, agriculture, labor, and State and local governments, to coordinate and utilize all its plans, functions, and resources for the purpose of creating and maintaining, in a manner calculated to foster and promote free competitive enterprise and the general welfare, conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work,

and to promote maximum employment, production, and purchasing power." Discipline Rules For Attorneys (DRA), Rule 4.1 (b) and Rule 4.2 (a), (b), (c), Volume 10 Revised Code of Washington (1978 Edition) pages 51, 52.

"Rule 4.1 Transfer to inactive status

(b) If it appears to the Board that there is reasonable cause to believe that an active member, as to whom there has been no judicial determination as that referred to in Rule 4.1 (a), is unable to conduct his or her law practice adequately because of insanity, mental illness, senility, excessive use of alcoho. or drugs, or other mental incapacity, a complaint in the name of the Association shall be served upon such attorney and shall be referred to a Hearing Panel for a hearing on the issue of the capacity of the member

to conduct his or her practice adequately. The Panel, at the conclusion of its hearing, shall prepare findings, conclusions, and recommendation as to whether or not the respondent attorney should be placed on the inactive roll. The record of such proceedings shall thereafter be reviewed by the Board which shall make findings and conclusions, based thereon and shall enter an appropriate order.

Rule 4.2 Reinstatement to active status

Any member who has been placed on the inactive roll for any reason encompassed within Rule 4.1, may petition for reinstatement to active membership as hereinafter provided.

(a) Petitioner.

The petition for reinstatement shall be in writing, verified by the petit-

ioner, and shall be filed with the Board.

(b) Investigation.

The Board, in its discretion, may refer the petition to the proper Local Administrative Committee, State Bar Counsel, or to such other person or persons as it may determine, for investigation and report.

(c) Hearing Date.

The Board shall fix a time and place for a hearing upon the petition by the Board, and shall cause notice thereof to be served upon the petitioner and upon such other persons as it may designate at least 10 days prior thereto. Such hearing shall be held within 30 days of the date the petition is filed, unless continued for good cause."

APPENDIX C

State Of Washington

Before The Disciplinary Board Of The Washington State Bar Association

In re Gordon McLean Campbell, An Attorney at Law:

Petition Of The Above Named Attorney At Law To Be Reinstated To The Active Roll Of Attorneys Of The Washington State Bar Association

I

Petitioner was admitted to the Washington State Bar Association on August 31, 1949. In 1968, petitioner was transferred to the inactive roll of attorneys of the Washington State Bar Association. See In Re Campbell, 74 Wn. 2d 276, 444 P. 2d 784 (1968), certiorari denied Campbell v. Washington State Bar Ass'n, 394 U. S. 323, 89 S. Ct. 1207, 22 L. Ed. 2d 310 (1969).

The proceeding involved two charges. First was the Air Discovery. In this dis-

covery, petitioner contended that he had discovered that the air is an intelligent air form of life that blows and moves by means of its own life and will. The air is God, has various powers, and can speak to a human. Petitioner contended that he learned that the air is God when the voice of God spoke to him in oral English words from out of the adjacent air. C1

Petitioner contended that the scientific explanation of the air's movement is not satisfactory. Petitioner supported his discovery with the Bible which, he argued, shows that the air very probably is God and that its movement is live movement. Petitioner also supported his discovery with United States v. Ballard, 322 U. S. 78, 64 S. Ct. 882, 88 L. Ed. 1148 (1944). In this case, the U. S. Supreme Court held that the claim that Jesus Christ came down to earth and spoke to twentieth century humans was a valid religious belief and experience

which governmental authorities were forbidden to inquire into. Petitioner also supported the Air Discovery with many other U. S. Supreme Court cases involving religious liberty.

The other charge of the proceeding involved certain lawsuits by means of which petitioner, in effect, sued to obtain a job. The suits were against attorneys who had refused to employ petitioner though they were financially able to do so. Petitioner contended that he had a constitutional right to a job which was enforceable in court. The Washington Supreme Court held that petitioner could not use the courts to compel someone who did not want to employ
C2
/ him to nevertheless pay petitioner the wages he would have earned if employed. The decision of the Washington Supreme Court was based exclusively upon the suits which petitioner had brought and totally left out of consideration the Air Discovery. The

Washington Supreme Court said that the Air Discovery was not within the competence of the Washington Supreme Court or the Hearing Panel.

II

In 1975, it was proposed in the U. S. Congress to amend the 1946 Employment Act, 15 U. S. C. #1021 et seq. (1976 Edition), which declared as the national policy of the United States that every American is entitled to a job (See 15 U. S. C. #1021), to guarantee jobs to all Americans and to add a "right to sue" section authorizing Americans to sue in U. S. District Court to obtain a job. S. 50 (January 15, 1975), #2 and 5(h); 121 Cong. Rec. 298-302.

Section 5(h) of the proposed Amendment read as follows:

> "The district courts of the United States shall have jurisdiction of any action brought seeking relief pursuant to this Act, including injunctive, declaratory, and other forms of relief as well as damages. Any person deprived of rights secured by this Act shall be entitled in an action brought against the United States to recover damages, together with costs and attorneys' fees.

C3

(One of the suits which petitioner had brought was in U. S. District Court.)

In introducing this proposed Amendment into Congress, it was stated (by Senator Hubert Humphrey):

> "Above all, this is the first time that the Congress has ever had the opportunity to consider a legislative measure that not only sets forth in unmistakable terms every adult American's right to useful job opportunities at fair rates of compensation, but also backs up those rights by explicit executive,

C4

C5

legislative and judicial machinery.

I believe the bill expresses some of the deepest yearnings of the overwhelming majority of the American people." 121 Cong. Rec. 300.

III

The 1975 proposed Amendment to the 1946 Employment Act received nationwide attention and approval during 1975 and 1976. See September 21, 1975 edition of the Washington Post, Jobs And The Government (By David S. Broder), 121 Cong. Rec. 29709; November-December 1975 issue of Challenge magazine, Full Employment To Meet America's Needs, 121 Cong. Rec. 37251; July 1975 issue of the Washington Newsletter published by the Friends Committee on National Legislation, U. S. Employment Policy Needs Correction, 121 Cong. Rec. 25009;/ C4 February 13, 1976 edition of the New York Times, Poll Finds Voters Judging '76 Rivals On Personality, 122 Cong. Rec. 3459; Chicago Daily Defender, Full Employment Act, 121 Cong. Rec. 35230;

October 11, 1975 edition of the Norfolk Journal and Guide, Give Us Jobs!, 121 Cong. Rec. 35240; September 22, 1975 edition of the Wall Street Journal, Burns Proposes An Economic Blueprint That Blends Radical, Reactionary Ideas, September 20, 1975 edition of the Washington Star, Burns: Government Should Become "Employer Of Last Resort", September 20, 1975 edition of the New York Times, Burns Proposes Public Job Plan, 121 Cong. Rec. 31748; The Five Essentials Of Meaningful Full Employment Legislation, 121 Cong. Rec. 32964.

The idea of suing in U. S. District Court to obtain a job was publicized nationally. See September 21, 1975 edition of the Washington Post, Jobs And The Government (By David S. Broder), 121 Cong. Rec. 29709; November-December 1975 issue of Challenge magazine, Full Employment To Meet America's Needs, 121 Cong. Rec. 37251, at 37252; July 1975 issue of the Washington

Newsletter published by the Friends Committee on National Legislation, U. S. Employment Policy Needs Correction, 121 Cong. Rec./ C5 25009, at 25010; H. R. 50--The Full Employment Bill--And The "Right To Sue", 121 Cong. Rec. 18513.

The issue of guaranteed jobs for all Americans was a leading if not determinative issue in the Presidential Campaign of 1976. See U. S. News & World Report, March 22, 1976, How To Find Jobs For All--Big Debate Of The '70s; Tom Wicker Endorses Full Employment, 122 Cong. Rec. 1006; September 21, 1975 edition of the Washington Post, Jobs And The Government (By David S. Broder), 121 Cong. Rec. 29709; Detroit Free Press, December 7, 1975, A Scheme For Full Employment Is What The Republic Needs Most, 122 Cong. Rec. 6351; New York Times, February 16, 1976, Democratic Factions Join On A Full Employment Bill, 122 Cong. Rec. 3467; New York Times, March 19, 1976,

Full Employment Need For Realism, Chicago Sun-Times, March 20, 1976, Jobs--Promises To Keep, 122 Cong. Rec. 10709.

Guaranteed jobs for all Americans was the number one plank in the Democratic National Party Platform in the Presidential Campaign of 1976. See 1976 CQ Almanac--855, 856.

In the campaign, the Republicans strongly opposed full employment legislation. See Ford Administration Opposes Full Employment Bill,/ C6 121 Cong. Rec. 31754; Chicago Daily Defender, Full Employment Act, 121 Cong. Rec. 35230; Reply To Ford's Attack On The Full Employment Bill, 122 Cong. Rec. 12065; Congressional Black Caucus Response To The President's State Of The Union Message, 122 Cong. Rec. 1202.

The Democrats won the Presidential Election.

IV

In 1978, The Full Employment And Bal-

anced Growth Act of 1978 was enacted into law. See 15 U. S. C. A. #1021 et seq.. This law made statutory the right of every American to a job. See 15 U. S. C. A. #1021 (a), (b). 15 U. S. C. A. #1021 (b) reads as follows:

> "The Congress further declares and establishes as a national goal the fulfillment of the right to full opportunities for useful paid employment at fair rates of compensation of all individuals able, willing, and seeking to work."

V

Petitioner contends that his right to bring the suits of 1966 in which he sought to enforce his right to a job (in effect, suing for a job) is authorized and controlled by the decision of the United States Supreme Court in National Association For The Advancement Of Colored People v./ C7 Button, 371 U. S. 415, 9 L. Ed. 2d 405,

83 S. Ct. 328 (1963).

In this case, it was held that, where lawsuits involve a national political issue and national legislation with large groups of people on both sides of the issue, the suits become a form of political expression protected by the U. S. Constitution which is beyond the range of professional ethics and such suits do not constitute professional misconduct. In Button, the civil rights issue was involved.

In Button, at 371 U. S. 429, it was said:

> "In the context of NAACP objectives, litigation is not a technique of resolving private differences; it is a means for achieving the lawful objectives of equality of treatment by all government, federal, state and local, for the members of the Negro community in this country. It is thus a form of

political expression. Groups which find themselves unable to achieve their objectives through the ballot frequently turn to the courts.[12] Just as it was true of the opponents of New Deal legislation during the 1930's,[13] for example, no less is it true of the Negro minority today. And under the conditions of modern government, litigation may well be the sole practicable avenue open to a minority to petition for redress of grievances.

[12]Murphy, The South Counter-attacks: The Anti-NAACP Laws, 12 W. Pol. Q. 371 (1959). See Bentley, The Process of Government: A Study of Social Pressures/ C8 (1908); Rosenblum, Law as a Political Instrument (1955); Truman, The Governmental Process: Political Interests

and Public Opinion (1955); Vose, The National Consumers' League and the Brandeis Brief, 1 Midw. J. of Pol. Sci. 267 (1957); Comment, Private Attorneys-General: Group Action in the Fight for Civil Liberties, 58 Yale L. J. 574 (1949).

[13]Cf. Opinion 148, Committee on Professional Ethics and Grievances, American Bar Association (1935), ruling that the Liberty League's program of assisting litigation challenging New Deal legislation did not constitute unprofessional conduct.

Further, at 371 U. S. 431, the Court said:

"And we have refused to countenance compelled disclosure of a person's political associations in language closely applicable to the instant

case:

'Our form of government is built on the premise that every citizen shall have the right to engage in political expression and association. This right was enshrined in the First Amendment of the Bill of Rights. Exercise of these basic freedoms in America has traditionally been through the media of political associations. Any interference with the freedom of a party is simultaneously an interference with the freedom of its adherents. All politcal ideas cannot be channeled into the programs of our two major parties. History has amply proved the virtue of political activity by minority, dissident groups....' Sweezy v. New Hampshire, 354 U. S. 234, 250-251 (plurality opinion). Cf. De Jonge v. Oregon, 299 U. S. 353, 364-366.

C9

The NAACP is not a conventional political party; but the litigation it assists, while serving to vindicate the legal rights of members of the American Negro community, at the same time and perhaps more importantly, makes possible the distinctive contribution of a minority group to the ideas and beliefs of our society. For such a group, association for litigation may be the most effective form of political association."

At 371 U. S. 435, the Court continues:

"We cannot close our eyes to the fact that the militant Negro civil rights movement has engendered the intense resentment and opposition of the politically dominant white community

of Virginia;[15] litigation assisted by the NAACP has been bitterly fought.[16] In such circumstances, a statute broadly curtailing group activity leading to litigation may easily become a weapon of oppression, however even-handed its terms appear. Its mere existence could well freeze out of existence all such activity on behalf of the civil rights of Negro citizens."

At 371 U. S. 442, the Court says:

"[26]Compare Opinion 148, supra, n. 13, 19, at 312 (1957): 'The question presented, with its implications, involves problems of political, social and economic character that have long since assumed the proportions of national issues, on one side or the other which multitudes of patriotic citizens have aligned themselves. These issues transcend the range of professional ethics.'"

VI

During the administration of President Franklin D. Roosevelt, the United States experienced guaranteed employment, the WPA, which program is considered among the greatest achievements of President Franklin D. Roosevelt and a boon to the United States. See Washington Post, January 17, 1976, Uncle Sam: Employer Of Last Resort? (By Clayton Fritchey), 122 Cong. Rec. 360; 122 Cong. Rec. 3814; Buffalo Evening News, December 27, 1975, Burns: Bring Back WPA On New Terms (By Lucian Warren), 122 Cong. Rec. 244; Chicago Daily Defender, Full Employment Act, 121 Cong. Rec. 35230.

In 1944, President Franlin D. Roosevelt proclaimed his 1944 Economic Bill Of Rights which included the right of every American to a job. See 90 Cong. Rec. 57.

VII

The National Black Groups have declared that, as civil rights was their main agenda

item during the 1960's, so guaranteed jobs for all Americans is one of their main agenda items during the 1970's. See 121 Cong. Rec. 42292; Areas of Legislation Pursued By Congressional Black Caucus, 121 Cong. Rec. 5588;/ C11 Mrs. Coretta Scott King Testifies For Full Employment, 122 Cong. Rec. 1402; Economic And Political Power Cornerstones Of The Political Agenda For Black Americans In The Seventies, 121 Cong. Rec. 27062; 122 Cong. Rec. 401.

VIII

Petitioner contends that the rignt of every American to a job is a national political issue in the United States analagous to the civil rights issue of National Association For The Advancement Of Colored People v. Button, supra. See Paragraphs II, III, IV, V, VI, VII, supra. The issue involves national legislation including the guaranteed employment statutes of the 1930's, The WPA, The 1946 Employment Act,

15 U. S. C. #1021 et seq. (1976 Edition), The Full Employment And Balanced Growth Act of 1978, 15 U. S. C. A. #1021 et seq., and the proposed amendment of 1975 to the 1946 Employment Act, 121 Cong. Rec. 298-302.

Both sides of the issue have adherents as is shown by the Presidential Election Campaign of 1976 wherein the Democrats favored and the Republicans opposed guaranteed jobs for all Americans. See Paragraph III, supra. C12

IX

Therefore, under the holding of Button, suits to enforce the right of every American to a job (which is a national political issue in the United States) are a form of political expression protected by the U. S. Constitution which transcend the range of professional ethics and do not consitute professional misconduct.

"The question presented, with its implications, involves problems of

political, social and economic character that have long since assumed the proportions of national issues, on one side or the other which multitudes of patriotic citizens have aligned themselves. These issues transcend the range of professional ethics." National Association For The Advancement Of Colored People v. Button, 371 U. S. 415, at 442, footnote 26.

As shown supra, Paragraph VII, the National Black Groups have declared that, as civil rights (which was the national political issue involved in Button) was their main agenda item in the 1960's, so guaranteed jobs for all Americans is one of their main agenda items during the 1970's.

X

Accordingly, under the holding of Button, petitioner contends that his suits of 1966 to enforce his right to a job transcend the

range of professional ethics and do not constitute/ professional misconduct. C13

XI

Legislatively, all that needs to be done to authorize the procedure of suing in court to obtain a job is to add a right to sue section to The Full Employment And Balanced Growth Act of 1978, 15 U. S. C. A. #1021 et seq.. This Act makes statutory the right of every American to a job. See #1021 (a), (b).

This was in fact proposed to be done in the United States Congress in 1975 where it was proposed to amend the 1946 Employment Act, 15 U. S. C. #1021 et seq. (1976 Edition), to include a right to sue section allowing Americans to sue in U. S. District Court to obtain a job. See Paragraphs II and III, supra.

XII

Right to sue sections are common practice in the legislative branch of the govern-

ment. Many of our most important legislative acts, state and federal, which confer statutory rights and benefits, include right to sue sections authorizing statutory right and benefit recipients to sue in court to obtain their statutory right or benefit. The following is a partial list of such statutes: C14

15 U. S. C. #1051--right to register trademark

#1071--right to sue for registration

#1114--right to sue for infringement of trademark

17 App. U. S. C. #201--right of copyright

#501--right to sue for infringement of copyright

33 U. S. C. #903, 904--right to compensation for longshoremen and harbor workers for injury or death

#913, 921--right to sue for compensation

35 U. S. C. #101--right to patent

#281--right to sue for infringement of patent

42 U. S. C. #402--right to social security benefits

#405(g)--right to sue to obtain social security benefits

42 U. S. C. #2000a--right of equal access to places of public accomodation

#2000a-3--right to sue for violation of right of equal access

#2000e-2, 3--right to equal employment opportunities

#2000e-5(f)--right to sue for violation of employment opportunities

#3604, 3605, 3606--right

to equal housing opportunities

#3610(d), 3612--right to sue for equal housing

RCW 4.24.010--parents right to damages for injury or death of child and right to sue therefore

4.24.190--right to sue parents of minor children for damage done by children/

C15

7.48.010--right to be free from nuisance

7.48.020--right to sue for nuisance violation

7.52.010--right of tenants in common of realty to partition and a right to sue for partition

50.20.010--right to unemployment benefits

50.32.120--right to sue for unemployment benefits

RCW 51.32.010--right to workman's compensation for injury or death

51.52. 110--right to sue for workman's compensation

59.18.060--right of tenant to safe premises

59.18.090--right of tenant to sue because of unsafe premises

60.04.010--right of mechanics and materialmen to a lien

60.04.120--right to sue to foreclose lien

60.72.010--right of landlord to lien for rent

60.72.040--right to sue to foreclose lien

74.08.025--right to Public Assistance

74.08.080--right to sue for Public Assistance

From this list, it is apparent that all

that needs to be done to statutorily authorize the procedure of suing in court to obtain a job is to add the right to a job, statutorily declared by The Full Employment And Balanced Growth Act of 1978, 15 U. S. C. A. #1021 et seq., to the long list of statutory rights and benefits already supported with right to sue sections./ C16

XIII

Thus it is shown that the idea and procedure of suing in court to obtain a job, far from being a strange or startling idea, is actually a thoroughly rational and legal idea and involves merely the use of normal legislative practice in supporting statutory rights and benefits.

An interesting legal analysis of the idea and procedure of suing in court to obtain a job was presented to the U. S. Congress on June 11, 1975. See 121 Cong. Rec. 18513, H. R. 50--The Full Employment Bill--And The "Right To Sue".

The legal analysis was prepared by the legal department of the UAW (International Union, United Automobile, Aerospace & Agricultural Implement Workers Of America).

The analysis approved the feasibility of section 5(h), H. R. 50 (S.50), 120 Cong. Rec. 298-302, which proposed to authorize Americans to sue in U. S. District Court to obtain a job. See Paragraphs II and III, supra.

XIV

When a statute conferring a right or benefit does not contain an express right to sue provision,/ C17 the rule is well-established that:

> "The existence of a statutory right implies the existence of all necessary and appropriate remedies." Sullivan v. Little Hunting Park, Inc., 396 U. S. 229, 24 L. Ed. 2d 386, 90 S. Ct. 400 (1969), at 396 U. S. 239.

In Allen v. State Board of Elections,

393 U. S. 544, 22 L. Ed. 2d 1, 89 S. Ct. 817 (1969), at 393 U. S. 557, the U. S. Supreme Court said:

> "We have previously held that a federal statute passed to protect a class of citizens, although not specifically authorizing members of the protected class to institute suit, nevertheless implied a private right of action. In J. I. Case Co. v. Borak, 377 U. S. 426 (1964), we were called upon to consider #14 (a) of the Securities Exchange Act of 1934. 48 Stat. 895, 15 U. S. C. #78n (a). That section provides that it shall be 'unlawful for any person ....(to violate) such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.' We held that '(w)hile this language makes

no specific reference to a private right of action, among its chief purposes is 'the protection of investors,' which certainly implies the availability of judicial relief where necessary to achieve that result.' 377 U. S., at 432.

A similar analysis is applicable here. The guarantee of #5 that no person shall be denied the right to vote for failure to comply with an unapproved new enactment subject to/ #5, might well prove an empty promise unless the private citizen were allowed to seek judicial enforcement of the prohibition."

In Sullivan v. Little Hunting Park, Inc., 396 U. S. 229, 24 L. Ed. 2d 386, 90 S. Ct. 400 (1969), at 396 U. S. 238, the Court said:

> "We held in Jones v. Mayer Co. that although #1982 is couched in declaratory

terms and provides no explicit method of enforcement, a federal court has power to fashion an effective equitable remedy.....

We had a like problem in Bell v. Hood, 327 U. S. 678, where suit was brought against federal officers for alleged violations of the Fourth and Fifth Amendments. The federal statute did not in terms at least provide any remedy. We said:

> '(W)here federally protected rights have been invaded, it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief.....'"

XV

As shown previously (See Paragraph IV), The Full Employment And Balanced Growth Act of 1978, 15 U. S. C. A. #1021 et seq.,

affirmed in statutory law the right of every American to a job. See #1021 (a), (b).

> "The existence of a statutory right implies the existence of all necessary and appropriate remedies." Sullivan v. Little Hunting Park, Inc., 396 U. S. 229, 24 L. Ed. 2d 386, 90 S. Ct. 400 (1969), at 396 U. S. 239.

C19
/ Clearly, then, a private right of suit against a private company or private individual, suing for a job, could be implied under the 1978 law. Suit by an American citizen to obtain a job can be implied under this law.

See here 15 U. S. C. A. #1021 (j) which provides:

> "The Congress further declares that it is the purpose of the Full Employment and Balanced Growth Act of 1978 to rely principally on the private sector for expansion of economic activity and creation of new jobs for a growing

labor force. Toward this end, it is the purpose of this chapter to encourage the adoption of fiscal policies that would establish the share of the gross national product accounted for by Federal outlays at the lowest level consistent with national needs and priorities."

See also Congress Should Reaffirm Its Own Expressed Policy That The Government Should Rely On The Private Sector For Goods and Services, 121 Cong. Rec. 42315.

Thus, the 1978 law provides a statutory basis for implying the type of suit which petitioner brought in 1966.

XVI

Since the suits which petitioner brought in 1966 are now a plausible type suit under the Full Employment And Balanced Growth Act.of 1978, such/ type lawC20
suit must now be classified as a reasonable type suit for an American citizen to bring.

XVII

For the foregoing reasons, petitioner contends that he is entitled to be reinstated to the active roll of attorneys of the Washington State Bar Association and petitioner now petitions to be so reinstated.

s/Gordon McLean Campbell

Gordon McLean Campbell,
Petitioner
Calhoun Hotel Residence
Room 820
2000 Second Avenue
Seattle, Washington 98121

State Of Washington)
ss.
County of King)

Gordon McLean Campbell, being first duly sworn, on oath, deposes and says that he is the petitioner in the above-entitled proceeding, that he has read the foregoing Petition Of The Above Named Attorney At Law To Be Reinstated To The Active Roll Of

Attorneys Of The Washington State Bar Association, knows the contents thereof, and believes the same to be true./ C21

s/Gordon McLean Campbell

Subscribed and sworn to before me this 9th day of July, 1979.

s/Nancy J. Lidstrom

Notary Public in and for the State of Washington, residing at Seattle

Seal

C34

APPENDIX D

WASHINGTON STATE BAR ASSOCIATION

505 Madison St.

Seattle, Washington 98104

(206) 622-6054

Kurt M. Bulmer — Staff Attorneys

General Counsel — Leland G. Ripley

Robert T. Farrell — Jack J. Cullen

Senior Staff Counsel — Christopher C. Pence

August 6, 1979

Mr. Gordon Campbell

Calhoun Hotel

Room 820

2000 Second Avenue

Seattle, Washington 98121

Dear Mr. Campbell:

This will confirm our phone conversation in which I advised you that the Disciplinary Board had determined that your petition failed to state a case upon which a hearing could be granted.

The order has not been prepared reflect-

ing this decision but as soon as it is I will forward it to you. This should be sometime next week.

Sincerely,

s/Kurt M. Bulmer

Kurt M. Bulmer

General Counsel

KMB:pal

D2

APPENDIX E

No. 46438

Supreme Court of the State of Washington

Gordon McLean Campbell, Petitioner, v. The Disciplinary Board of the Washington State Bar Association, Respondent.	Petition Against State Officers Received Aug 27 1979 Clerk of Supreme Court State of Washington

Petitioner alleges:

I

Statement Of The Case

On July 9, 1979, petitioner filed his petition to be reinstated to the active roll of attorneys of the Washington State Bar Association with respondent Board. A copy of said petition is hereto attached. This petition was filed pursuant to DRA 4.2 (a).

DRA 4.2 (c) reads as follows:

"Hearing Date

The Board shall fix a time and place for a hearing upon the petition by the Board, and shall cause notice thereof to be served upon the petitioner and upon such other persons as it may designate at least 10 days prior thereto. Such hearing shall be held within 30 days of the date the petition is filed, unless continued for good cause." E1

Notwithstanding the provisions of DRA 4.2 (c), petitioner has not received the hearing required by said rule. See attached copy of letter from the General Counsel for the Washington Bar Association, Kurt M. Bulmer, saying that the Disciplinary Board had determined that a hearing could not be granted because petitioner's petition for reinstatement did not state a case upon which a hearing could

be granted.

II

Argument

The hearing granted by DRA 4.2 (c) is mandatory as shown by the use of the word "shall" in the rule. The Board is not given discretion to decide whether the hearing should be granted.

Therefore, petitioner's right to a hearing has been improperly denied by the Disciplinary Board.

III

Demand For Judgment

Wherefore, petitioner asks that the Disciplinary Board of the Washington State Bar Association be ordered to grant petitioner the hearing required by DRA 4.2 (c), with at least 10 days notice thereof. E2

August 27, 1979

s/Gordon McLean Campbell

Gordon McLean Campbell,

Petitioner

Calhoun Hotel Residence
Room 820
2000 Second Avenue
Seattle, Washington 98121

Attached to the Petition Against State Officers were a copy of Petition Of Gordon McLean Campbell To Be Reinstated To The Active Roll Of Attorneys Of The Washington State Bar Association (Appendix C) and a copy of the letter from the General Counsel for the Washington State Bar Association (Appendix D).

APPENDIX F

Before The Disciplinary Board Of The Washington State Bar Association

In re petition of) Order Directing No
Gordon M. Campbell) Further Action

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1. Review- The Disciplinary Board of the Washington State Bar Association, meeting on August 3, 1979, reviewed and considered the petition for reinstatement to active practice filed by Gordon M. Campbell.

2. Matters Considered- The Disciplinary Board reviewed the petition as well as the Supreme Court's decision in In re Campbell, 74 Wn. 2d 276, 444 P. 2d 784 (1968). The Board was specifically aware of the Supreme Court's determination, at page 281 of the opinion, that Mr. Campbell's

> ...name should be stricken from the roll of attorneys engaged in active practice in this state and placed on the inactive list until such time as he can establish that he is again

mentally competent to practice law.

3. Conclusions - Based on its review the Board has concluded that the petition's only argument is that the state of the law has changed. The petition does not assert any change in Mr. Campbell's mental condition.

4. Order - As the petition does not aver any change in Mr. Campbell's mental condition, the Board directs that no further action be taken[F1] on the petition at this time.

Dated this 23rd day of August, 1979.

s/ Jack G. Rosenow, Chairman

Jack G. Rosenow, Chairman

Disciplinary Board

APPENDIX G

No. 46438

Supreme Court Of The State Of Washington

Gordon McLean Campbell,	)	
Petitioner,	)	Motion To
v.	)	Modify
The Disciplinary Board	)	Ruling
Of The Washington State	)	
Bar Association,	)	
Respondent.	)	

1. Identity of Moving Party

Gordon McLean Campbell, petitioner asks for the relief designated in Part 2.

2. Statement of Relief Sought

Modify ruling of the Commissioner filed on September 21, 1979. The ruling dismissed petitioner's Petition Against State Officers. This Court should order that petitioner's Petition Against State Officers be heard and decided by the Washington State Supreme Court.

3. Facts Relevant to Motion

The facts are set out in Part I of petitioner's Petition Against State Officers. See also/ G1 copy of petitioner's Petition to be Reinstated to the Active Roll of Attorneys of the Washington State Bar Association filed with respondent Board attached to the Petition Against State Officers. See also copy of letter from the General Counsel for the Washington State Bar Association, denying petitioner a hearing on his petition for reinstatement, attached to the Petition Against State Officers.

4. Grounds For Relief and Argument

(a) The Commissioner had no authority to dismiss the Petition Against State Officers. The petition was filed pursuant to RAP 16.2(b). RAP 16.2(d) grants the Commissioner authority only to determine whether the Petition will be decided by the Washington Supreme Court or transferred to a Superior Court for determination. No authority is given the Commissioner to dismiss the Petition.

(b) The dismissal of the Petition by the Commissioner was without a hearing and therefore denied petitioner due process of law. The hearing of the petition was Summary and without oral argument. Petitioner was not/ G2 present. The basic elements of procedural due process are notice and hearing. This proposition is so well settled as to need no citation of authority. Since the petitioner did not receive the notice and hearing contemplated by RAP 16.2, he was denied due process by the dismissal of the Petition.

(c) The Washington State Supreme Court should decide the Petition Against State Officers as provided in RAP 16.2. The Supreme Court has exclusive authority over the admission of attorneys. See In Re Bruen, 102 Wn. 472, 172 P. 1152 (1918). Since the Petition involves an application for reinstatement, the Petition should be

heard by the Supreme Court rather than a Superior Court.

(d) The Petition should be decided by the Supreme Court since only an issue of law is involved. It is conceded that petitioner did not receive a hearing before respondent Board on his Petition for Reinstatement. The only issue is the issue of law whether such hearing is required by DRA 4.2(c). There is no need for a Superior Court trial. G3

September 28, 1979

s/Gordon McLean Campbell

Gordon McLean Campbell,

Petitioner

Calhoun Hotel Residence

Room 820

2000 Second Avenue

Seattle, Washington 98121

APPENDIX H

Supreme Court Of The State Of Washington

Gordon McLean Campbell,)
Petitioner,)
v.)
The Disciplinary Board)
Of The Washington State)
Bar Association,)
Respondent.)

No. 46438

Notation Order

Motion To Modify Ruling:

Denied.

s/ Robert F. Utter

Chief Justice.

October 12, 1979 Dept. One

Entered at page 515, Volume 14 of the Motion Docket on October 12, 1979.

Supreme Court, U. S.
FILED
JAN 17 1980
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

FALL TERM 1979

NO. 79-990

GORDON MC LEAN CAMPBELL,

Petitioner,

vs.

DISCIPLINARY BOARD,
WASHINGTON STATE BAR ASSOCIATION,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Robert T. Farrell
Washington State Bar
Association
505 Madison Street
Seattle, Washington 98104
(206) 622-6054

Counsel for respondent

IN THE

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Association
505 Madison Street
Seattle, Washington 98104
(206) 622-6054

Counsel for respondent

QUESTION PRESENTED FOR REVIEW

Where an attorney has been transfered to inactive status for mental incapacity, is he constitutionally entitled to a hearing on a petition for reinstatement which fails to allege or make any showing of restoration of his mental capacity?

STATEMENT OF THE CASE

On August 15, 1968, petitioner Gordon McLean Campbell was involuntarily transfered to inactive status as an attorney in the State of Washington by order of the Washington Supreme Court. In re Campbell, 74 Wash.2d 276, 444 P.2d 784 (1968), cert. denied, 394 U.S. 323, 89 S.Ct. 1207, 22 L.Ed.2d 310 (1969). In entering this order, the court ruled that Mr. Campbell should remain on the inactive list "until such time as he can establish that he is again mentally competent to practice law." 444 P.2d at 787.

On July 9, 1979, Mr. Campbell filed a petition for reinstatement as an active member of the Bar Association. See the Petition, Appendix C. His reinstatement petition contained not even a bare allegation that he now had the mental capacity to represent clients.

Washington Discipline Rules for Attorneys, Rule 4.2 (Petition, Appendix B, pp. B7-8), normally require a hearing upon a petition for reinstatement after involuntary transfer to inactive status. However, the Disciplinary Board reviewed Mr. Campbell's purported petition for reinstatement and determined that, on its face, that petition contained no assertion of restoration of mental capacity, and therefore presented no

issue upon which a hearing could be held. Accordingly, the Board ordered that no further action should be taken on that petition. Petition, Appendix F.

Mr. Campbell appealed the Board's decision to the Washington Supreme Court. On September 21, 1979, the Court Commissioner entered an order approving the Board's decision. Petition, Appendix A. Mr. Campbell moved the court to modify the Commissioner's ruling, Petition, Appendix G, and the Chief Justice affirmed the Commissioner's ruling, Petition, Appendix H. This petition followed.

ARGUMENT

The Supreme Court of Washington has ruled that before Gordon Campbell can be reinstated to the active practice of law in Washington, he must establish that he is again mentally competent to practice law. Mr. Campbell cannot, and does not, challenge that ruling, which has been in effect for more than eleven years. Instead he claims a constitutional right to a hearing on a petition for reinstatement which makes no mention of his current mental capacity, and contains no allegation or showing that he is now mentally competent to practice law.

Due process may very well generally require a hearing on a reinstatement petition; in any case, Washington court rules require such a hearing. But neither constitutional due process, nor the Washington rule as interpreted by its Supreme Court, require a hearing when no issue exists. Since Mr. Campbell must show his restoration of mental competence prior to being reinstated to the active practice of

law, and since he has failed even to allege his present mental competence, no material disputed facts exist upon which a hearing could be held.

The case of Federal Power Comm'n v. Texaco, Inc., 377 U.S. 33, 84 S.Ct. 1105, 12 L.Ed2d 112 (1964), contains a similar fact pattern. The issue involved was a natural gas supplier's right to a hearing on an application for public convenience and necessity. Although the law provided that the Commission "shall set" such applications for hearing, in this case the application was rejected without a hearing because it showed non-compliance with rules of the Commission on its face. This Court agreed that a hearing was not required since it could serve no purpose.

The case of Wilson v. Wilson, 416 F. Supp. 984(D.Or. 1976)(3-judge court) is also similar. In that case, an application for the Oregon bar examination was summarily rejected because of defects which appeared on its face. The would-be lawyer claimed that he had been denied procedural due process, since he had never been granted a hearing on refusal to be seated for the bar. The court found that the state could legitimately refuse to process an application which itself showed that the applicant did not meet admission requirements, and that neither due process nor equal protection would require a hearing in such a case.

In another case, Wilson v. Board of Governors, 90 Wash.2d 649, 585 P.2d 136 (1978), cert denied, 440 U.S. 960, 99 S.Ct. 1503 (1979), a bar applicant claimed a right to a hearing on his application to sit for the bar examination. The application on its face showed that he did not

have the legal education required of such an applicant. The Washington Supreme Court held that due process requires an adversary hearing only when disputed facts exist. This Court denied certiorari.

Since the first rejection of his petition, Mr. Campbell has been free to resubmit a petition containing allegations regarding his present mental status. Until the Disciplinary Board of the Washington State Bar Association is presented with such allegations, there is no issue upon which a hearing can or should be ordered. Accordingly, the present petition contains no federal issue of substance, and should be denied.

CONCLUSION

Since Gordon Campbell's petition for writ of certiorari does not present any federal question of substance, respondent Disciplinary Board, Washington State Bar Association, respectfully requests that the petition be denied.

DATED this 15th day of January, 1980.

Respectfully submitted,

Robert T. Farrell
Counsel for respondent